

II

96TH CONGRESS  
2D SESSION

# S. 2216

To improve the intelligence system of the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 24 (legislative day, JANUARY 3), 1980

Mr. MOYNIHAN (for himself, Mr. DOMENICI, Mr. WALLOP, Mr. JACKSON, Mr. NUNN, Mr. DANFORTH, and Mr. CHAFEE) introduced the following bill; which was read twice and referred to the Select Committee on Intelligence

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## A BILL

To improve the intelligence system of the United States, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Intelligence Reform Act  
4       of 1980".

5       SEC. 2. Section 662(a) of the Foreign Assistance Act of  
6       1961, as amended (22 U.S.C. 2422(a)), is amended to read  
7       as follows:

8       "No funds appropriated under the authority of this  
9       chapter or any other Act may be expended by or on behalf of

1 the Central Intelligence Agency for a special activity, unless  
2 and until—

3           “(1) the President finds that the activity is impor-  
4 tant to the national security of the United States and  
5 reports, as soon as possible, a description and scope of  
6 the activity to the Select Committee on Intelligence of  
7 the United States Senate and to the Permanent Select  
8 Committee on Intelligence of the United States House  
9 of Representatives, or,

10           “(2) the National Security Council determines  
11 that the activity does not involve substantial resources  
12 or risks and falls within a category of special activities  
13 which category shall have been found by the President  
14 to be important to the national security of the United  
15 States and which finding shall have been reported to  
16 the Select Committee on Intelligence of the United  
17 States Senate and to the Permanent Select Committee  
18 on Intelligence of the United States House of Repre-  
19 sentatives.

20 For the purposes of this subsection, the term ‘special activity’  
21 means an activity conducted abroad in support of national  
22 foreign policy objectives which is designed to further official  
23 United States programs and policies abroad and which is  
24 planned and executed so that the role of the United States  
25 Government is not apparent or acknowledged publicly, and

1 functions in support of such an activity, but not including  
2 diplomatic activity or the collection and production of intelli-  
3 gence or related support functions.”.

4 SEC. 3. Section 6 of the Central Intelligence Agency  
5 Act of 1949 (50 U.S.C 403g), is amended to read as follows:

6 “In the interests of the security of the foreign intelli-  
7 gence activities of the United States and in order further to  
8 implement the proviso of section 403(d)(3) of this title that  
9 the Director of Central Intelligence shall be responsible for  
10 protecting intelligence sources and methods from unauthor-  
11 ized disclosure, the Agency shall be exempted from the provi-  
12 sions of any law which require the publication or disclosure of  
13 the organization, functions, names, official titles, salaries, or  
14 number of personnel employed by the Agency. In furtherance  
15 of the responsibility of the Director of Central Intelligence to  
16 protect intelligence sources and methods, information in files  
17 maintained by an intelligence agency or component of the  
18 United States Government shall also be exempted from the  
19 provisions of any law which require the publication or disclo-  
20 sure, or the search or review in connection therewith, if such  
21 files have been specifically designated by the Director of  
22 Central Intelligence to be concerned with: The design, func-  
23 tion, deployment, exploitation or utilization of scientific or  
24 technical systems for the collection of foreign intelligence or  
25 counterintelligence information; special activities and for-

1 eign intelligence or counterintelligence operations; investiga-  
2 tions conducted to determine the suitability of potential for-  
3 eign intelligence or counterintelligence sources; intelligence  
4 and security liaison arrangements or information exchanges  
5 with foreign governments or their intelligence or security  
6 services: *Provided*, That requests by American citizens and  
7 permanent resident aliens for information concerning them-  
8 selves, made pursuant to sections 552 and 552a of title 5,  
9 shall be processed in accordance with those sections. The  
10 provisions of this section shall not be superseded except by a  
11 provision of law which is enacted after the date of this  
12 amendment and which specifically repeals or modifies the  
13 provisions of this section.”.

14 SEC. 4. (a) The National Security Act of 1947 is  
15 amended by adding at the end thereof the following new title:  
16 “TITLE V—PROTECTION OF CERTAIN NATIONAL  
17 SECURITY INFORMATION

18 “PROTECTION OF IDENTITIES OF CERTAIN UNITED  
19 STATES UNDERCOVER INTELLIGENCE OFFICERS,  
20 AGENTS, INFORMANTS, AND SOURCES

21 “SEC. 501. (a) Whoever, having or having had author-  
22 ized access to classified information that—

23 “(1) identifies as an officer or employee of an in-  
24 telligence agency, or as a member of the Armed  
25 Forces assigned to duty with an intelligence agency,

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1       any individual (A) who in fact is such an officer, em-  
2       ployee, or member, (B) whose identity as such an offi-  
3       cer, employee, or member is classified information, and  
4       (C) who is serving outside the United States or has  
5       within the last five years served outside the United  
6       States;

7           “(2) identifies as being or having been an agent  
8       of, or informant or source of operational assistance to,  
9       an intelligence agency any individual (A) who in fact is  
10      or has been such an agent, informant, or source, and  
11      (B) whose identity as such an agent, informant, or  
12      source is classified information,  
13      intentionally discloses to any individual not authorized to re-  
14      ceive classified information any information that identifies an  
15      individual described in paragraph (1) or (2) as such an officer,  
16      employee, or member or as such an agent, informant, or  
17      source, knowing or having reason to know that the informa-  
18      tion disclosed so identifies such individual and that the United  
19      States is taking affirmative measures to conceal such individ-  
20      ual’s intelligence relationship to the United States, shall be  
21      fined not more than \$50,000 or imprisoned not more than ten  
22      years, or both.  
23           “(b) Whoever with the intent to impair or impede the  
24      foreign intelligence activities of the United States discloses to

1 any individual not authorized to receive classified information  
2 any information that—

3           “(1) identifies as an officer or employee of an in-  
4 telligence agency, or as a member of the Armed  
5 Forces assigned to duty with an intelligence agency,  
6 any individual (A) who in fact is such an officer, em-  
7 ployee, or member, (B) whose identity as such an offi-  
8 cer, employee, or member is classified information, and  
9 (C) who is serving outside the United States or has  
10 within the last five years served outside the United  
11 States; or

12           “(2) identifies as being or having been an agent  
13 of, or informant or source of operational assistance to,  
14 an intelligence agency any individual (A) who in fact is  
15 or has been such an agent, informant, or source, and  
16 (B) whose identity as such an agent, informant, or  
17 source is classified information,

18 knowing or having reason to know that the information dis-  
19 closed so identifies such individual and that the United States  
20 is taking affirmative measures to conceal such individual's  
21 intelligence relationship to the United States, shall be fined  
22 not more than \$5,000 or imprisoned not more than one year,  
23 or both.

1                   **"DEFENSES AND EXCEPTIONS**

2           **"SEC. 502. (a)** It is a defense to a prosecution under  
3 section 501 that before the commission of the offense with  
4 which the defendant is charged, the United States had public-  
5 ly acknowledged or revealed the intelligence relationship to  
6 the United States of the individual the disclosure of whose  
7 intelligence relationship to the United States is the basis for  
8 the prosecution.

9           **"(b)(1)** Subject to paragraph (2), no person other than a  
10 person committing an offense under section 501 shall be sub-  
11 ject to prosecution under such section by virtue of section 2  
12 or 4 of title 18, United States Code, or shall be subject to  
13 prosecution for conspiracy to commit an offense under such  
14 section.

15           **"(2)** Paragraph (1) shall not apply in the case of a per-  
16 son who acted with the intent to impair or impede the foreign  
17 intelligence activities of the United States.

18           **"(c)** In any prosecution under section 501(b), proof of  
19 intentional disclosure of information described in such sec-  
20 tion, or inferences derived from proof of such disclosure, shall  
21 not alone constitute proof of intent to impair or impede the  
22 foreign intelligence activities of the United States.

23           **"(d)** It shall not be an offense under section 501 to  
24 transmit information described in such section directly to the  
25 Select Committee on Intelligence of the Senate or to the Per-

1 manent Select Committee on Intelligence of the House of  
2 Representatives.

3 "EXTRATERRITORIAL JURISDICTION

4 "SEC. 503. There is jurisdiction over an offense under  
5 section 501 committed outside the United States if the indi-  
6 vidual committing the offense is a citizen of the United States  
7 or an alien lawfully admitted to the United States for perma-  
8 nent residence (as defined in section 101(a)(20) of the Immi-  
9 gration and Nationality Act).

10 "PROVIDING INFORMATION TO CONGRESS

11 "SEC. 504. Nothing in this title shall be construed as  
12 authority to withhold information from Congress or from a  
13 committee of either House of Congress.

14 "DEFINITIONS

15 "SEC. 505. For the purposes of this title:

16 "(1) The term 'classified information' means information  
17 or material designated and clearly marked or clearly repre-  
18 sented, pursuant to the provisions of a statute or Executive  
19 order (or a regulation or order issued pursuant to a statute or  
20 Executive order), as requiring a specific degree of protec-  
21 tion against unauthorized disclosure for reasons of national  
22 security.

23 "(2) The term 'authorized', when used with respect to  
24 access to classified information, means having authority,  
25 right, or permission pursuant to the provisions of a statute,



1 Executive order, directive of the head of any department or  
2 agency engaged in foreign intelligence or counterintelligence  
3 activities, order of a United States district court, or provi-  
4 sions of any rule of the House of Representatives or resolu-  
5 tion of the Senate which assigns responsibility within the re-  
6 spective House of Congress for the oversight of intelligence  
7 activities.

8       “(3) The term ‘disclose’ means to communicate, pro-  
9 vide, impart, transmit, transfer, convey, publish, or otherwise  
10 make available.

11       “(4) The term ‘intelligence agency’ means the Central  
12 Intelligence Agency or any intelligence component of the De-  
13 partment of Defense.

14       “(5) The term ‘informant’ means any individual who  
15 furnishes or has furnished information to an intelligence  
16 agency in the course of a confidential relationship protecting  
17 the identity of such individual from public disclosure.

18       “(6) The terms ‘agent’, ‘informant’, and ‘source of oper-  
19 ational assistance’ do not include individuals who are citizens  
20 of the United States residing within the United States.

21       “(7) The terms ‘officer’ and ‘employee’ have the mean-  
22 ings given such terms by sections 2104 and 2105, respec-  
23 tively, of title 5, United States Code.

24       “(8) The term ‘Armed Forces’ means the Army, Navy,  
25 Air Force, Marine Corps, and Coast Guard.

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